UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.166
6 November 2001

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-eighth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Paraguay

1. The Committee considered the second periodic report of Paraguay (CRC/C/65/Add.12), submitted on 12 October 1998, at its 741st meeting (see CRC/C/SR.741), held on 8 October 2001, and adopted, at its 749th meeting (CRC/C/SR.749), held on 12 October 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's second periodic report, which very precisely follows the guidelines for reporting, thus providing the Committee with a lot of information on the implementation of the Convention. However, the written replies to its list of issues (CRC/C/Q/PAR.2), received only on 5 October 2001, only partly addressed the Committee's questions. Furthermore, the delegation representing the State party was unfortunately not in a position to answer most of the questions put by the Committee. In particular, the Committee regrets that it was not possible to discuss in more detail the content of the new Children's Code. The Committee regretfully recalls that similar problems occurred during the examination of the initial report of the State party.

B. Positive aspects

3. The Committee welcomes the adoption of the Children's Code in line with its previous recommendation (CRC/C/15/Add.75, para. 29).

4. In light of its previous recommendation (CRC/C/15/Add.75, para. 41), the Committee notes with satisfaction the promulgation in 1997 of the Adoption Act to combat trafficking in children and establish strict control over all matters connected with adoption, especially intercountry adoption. It further takes note of the Law against Domestic Violence.

5. The Committee notes with satisfaction the establishment in 1997 of a Juvenile Complaints Department for the receipt of complaints of violations of children's rights, and in 1998 of a National Network against Child Abuse (REDNAMI), made up of governmental and non-governmental organizations.

C. Factors and difficulties impeding progress in the implementation of the Convention

6. The Committee notes with concern that the State party is facing many difficulties in the implementation of the Convention, in particular owing to political instability, low economic growth and an inadequate public service. The Committee acknowledges that the serious economic and social disparities, affecting in particular people living in rural areas and indigenous people, impede the full achievement and enjoyment of the rights recognized in the Convention.

D. Principal areas of concern and recommendation

1. General measures of implementation

Committee's previous recommendations

7. The Committee notes with great concern that most of its previous recommendations (CRC/C/15/Add.75) have not been satisfactorily followed up or not followed up at all.

8. **The Committee strongly recommends that the State party give effective follow-up to the Committee's previous recommendations, paying particular attention to those which are reiterated hereafter.**

Legislation

9. The Committee notes with concern that the recently adopted Children's Code may not enter into force at the end of November 2001, six months after its promulgation.

10. **The Committee recommends that the State party:**

(a) Ensure that the Children's Code enters into force without delay;

(b) Ensure the implementation of the Children's Code in full compliance with the Convention, paying particular attention to the elimination of the traditional concept of "irregular situation" and to the need for adequate structures by allocating the necessary human and financial resources.

Coordination

11. While noting that the new Children's Code foresees the establishment of a National Secretariat for Children and Adolescents, the Committee notes with concern that a process of reform of the structure of ministries and secretariats in Paraguay may delay the entry into force of the Code until July 2002, thereby preventing the allocation of funds in the 2002 budget for the new structure. It further notes with concern that the National Plan of Action for Children (PNAI) has limited economic resources and is not disseminated at local level, and that its coordinating body, the PNAI Committee, does not have a budget allocation and has had a large turnover among its members.

12. **The Committee recommends that the State party:**

(a) Strengthen coordination between the various governmental bodies and mechanisms involved in children's rights at both the national and local levels, in line with its previous recommendation (CRC/C/15/Add.75, para. 30);

(b) Ensure the establishment of the National Secretariat for Children and Adolescents without delay;

(c) Provide adequate human and financial resources in the 2002 budget for the National Secretariat for Children and Adolescents in order to enable it to carry out its tasks in an effective way; and

(d) For the preparation of the next National Plan of Action take into account the obstacles met in implementing the previous National Plan of Action and the results of the mid-term evaluation and of the review made for the end-of-decade report.

Budgetary allocations

13. While noting the information that there has been an increase in public social spending, the Committee reiterates its concern that budgetary allocations for children are still insufficient to respond to national and local priorities for the protection and promotion of children's rights and to overcome and remedy existing disparities between rural and urban areas with respect to services provided to children (CRC/C/15/Add.75, para. 35).

14. **In light of article 4 of the Convention, the Committee encourages the State party:**

(a) To strengthen its efforts to reduce poverty and its impact on children;

(b) To identify clearly its priorities with respect to child rights issues in order to ensure that funds are allocated "to the maximum extent of ... available resources and, where needed, within the framework of international cooperation" for the full implementation of the economic, social and cultural rights of children, in particular with respect to local governments and for children belonging to the most vulnerable groups in society; and

(c) To identify the amount and proportion of the budget spent on children at the national and local levels in order to evaluate the impact and effect of the expenditures on children.

Monitoring

15. Although the 1992 Constitution foresees the creation of a *Defensor del Pueblo* (human rights ombudsman), the Committee notes with concern that no mechanism has been established yet to receive and address complaints, in particular in the field of children's rights.

16. **The Committee encourages the State party to establish an independent and effective mechanism in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134), provided with adequate human and financial resources and easily accessible to children, that:**

(a) Monitors the implementation of the Convention;

(b) Deals with complaints from children in a child-sensitive and expeditious manner; and

(c) Provides remedies for violations of their rights under the Convention.

In this regard, the Committee further recommends that the State party consider seeking technical assistance from, among others, UNICEF and OHCHR.

Data collection

17. The Committee, while noting the creation in 1995 of a database to monitor the National Plan of Action for Children (PNAI), expresses its concern that statistical data are not updated and do not cover sufficiently nor are disaggregated for all areas covered under the Convention, and that, when available, these data are not used in an adequate manner to assess trends and as a basis for policy-making in the field of children's rights.

18. **In line with its previous recommendation (CRC/C/15/Add.75, para. 32), the Committee recommends that the State party:**

(a) Further strengthen, expand and update its database; and

(b) Use these indicators and data effectively for the formulation and evaluation of policies and programmes for the implementation and monitoring of the Convention.

Dissemination and training

19. The Committee recognizes that material promoting human rights was disseminated by both governmental agencies and non-governmental organizations, in line with its previous recommendation (CRC/C/15/Add.75, para. 33), but notes that these measures need to be strengthened, in particular in rural areas and among indigenous children.

20. **The Committee recommends that the State party:**

(a) Increase its efforts to translate informative material into Guaraní and the main indigenous languages and disseminate it;

(b) Develop more creative methods for promoting the Convention, including through audio-visual aids such as picture books and posters, in particular at local level;

(c) Provide adequate and systematic training and/or sensitization of professional groups working with and for children, such as judges, lawyers, law enforcement personnel, teachers, school administrators and health personnel;

(d) Fully integrate the Convention into the curricula at all levels of the educational system; and

(e) Seek technical assistance from, among others, UNICEF, UNESCO and OHCHR.

Cooperation with NGOs

21. The Committee, while noting examples of collaboration between governmental institutions and non-governmental organizations, e.g. in the preparation of the Children's Code and of the State party's second periodic report, nevertheless notes that cooperation with non-governmental organizations should be further promoted and reinforced.

22. **The Committee reiterates its recommendation to the State party (CRC/C/15/Add.75, para. 31) to encourage the promotion of closer cooperation with non-governmental organizations, in particular in the area of implementation of the new Children's Code.**

2. Definition of the child

23. The Committee reiterates its concern about the disparity between the legal minimum age for admission to employment (12 years) and the age for the end of compulsory education (15 years).

24. **The Committee recommends that the State party increase the minimum age for admission to employment in order to prevent children from starting to work before the completion of compulsory education.**

3. General principles

25. The Committee is concerned that the principles of non-discrimination (article 2 of the Convention), best interests of the child (art. 3), right to life, and maximum possible survival and development of the child (art. 6) and respect for the views of the child (art. 12) are not fully reflected in the State party's legislation and administrative and judicial decisions, as well as in policies and programmes relevant to children at both national and local levels.

26. **The Committee reiterates its previous recommendation (CRC/C/15/Add.75, para. 34) that the State party:**

(a) Appropriately integrate general principles of the Convention, in particular the provisions of articles 2, 3, 6 and 12, in all relevant legislation concerning children;

(b) Apply them in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children; and

(c) Apply these principles in planning and policy-making at every level, as well as in actions taken by social and health welfare institutions, courts of law and administrative authorities.

Non-discrimination

27. The Committee is concerned that the principle of non-discrimination is not fully implemented for children belonging to indigenous groups or those groups speaking only Guaraní, urban and rural poor children, girls, street children, children with disabilities, and children living in rural areas, especially with regard to their access to adequate health and educational facilities. It further notes with concern that pregnant girls are often not allowed to continue their education, especially in private schools.

28. **The Committee recommends that the State party:**

(a) Take all the necessary measures to end discrimination;

(b) Monitor the situation of children, in particular those belonging to the above-mentioned vulnerable groups, who are exposed to discrimination;

(c) Develop, on the basis of the results of this monitoring, comprehensive strategies containing specific and well-targeted actions aimed at ending all forms of discrimination; and

(d) Include specific information in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow-up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29 (1) of the Convention on the aims of education.

4. Civil rights and freedoms

Birth registration

29. The Committee notes with concern that a large number of children, in particular those belonging to indigenous groups and/or living in rural or remote areas, are not registered because of distance or because parents are unaware of the importance of birth registration. It further notes that registration is not free.

30. **In light of article 7 of the Convention and in line with its previous recommendation (CRC/15/Add.75, para. 38), the Committee recommends that the State party:**

(a) Develop more widespread awareness among the population of the importance of birth registration; and

(b) Improve the registration system in order to reach all people, in particular in rural and remote areas, including by using mobile registration units.

Corporal punishment

31. The Committee is concerned that corporal punishment of children remains socially acceptable in Paraguay and that it is still practised in families, schools and other institutions.

32. **In light of articles 3, 19 and 28 (2) of the Convention, the Committee encourages the State party to:**

(a) Develop measures to raise awareness about the harmful effects of corporal punishment and encourage use of alternative forms of discipline in families to be administered in a manner consistent with the child's dignity and in conformity with the Convention; and

(b) Explicitly prohibit corporal punishment in the family, in schools and in other institutions.

5. Family environment and alternative care

Parental responsibilities

33. The Committee is concerned at the increase in the breakdown of families, in particular owing to migration to urban areas. It further notes that children, particularly in poor families, are not sufficiently stimulated, which can have a negative impact on their harmonious development.

34. **In light of article 18 of the Convention and in line with its previous recommendations (CRC/C/15/Add.75, paras. 39 and 43), the Committee recommends that the State party:**

(a) Improve social assistance to families to help them with their child-rearing responsibilities, including through counselling and community-based programmes, with a focus on early stimulation; and

(b) Seek international assistance from, among others, UNICEF.

Abuse and neglect

35. The Committee, while noting the establishment in 1998 of a National Network for Child Abuse (REDNAMI), is nevertheless concerned at its lack of human and financial resources. It is further concerned at the lack of data and information on child abuse and neglect, at the inadequacy of measures, mechanisms and resources to prevent and combat physical and sexual abuse and neglect of children, and at the limited number of services for abused children, in particular in rural areas.

36. **In light of article 19 of the Convention and in line with its previous recommendation (CRC/C/15/Add. 75, para. 40), the Committee recommends that the State party:**

(a) Undertake studies on domestic violence, ill-treatment and abuse, including sexual abuse, in order to assess the extent, scope and nature of these practices;

(b) Adopt and implement effectively adequate measures and policies, and contribute to changing attitudes, and in that regard provide the National Network for Child Abuse with adequate human and financial resources;

(c) Investigate effectively cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, within a child-sensitive inquiry and judicial procedure in order to ensure better protection of child victims, including the protection of their right to privacy;

(d) Take measures to provide support services to children in legal proceedings, and for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment and violence, in accordance with article 39 of the Convention; and

(e) Seek, in this regard, international cooperation and technical assistance from, among others, UNICEF and WHO.

6. Basic health and welfare

Health and health services

37. While noting the decrease in the infant and child mortality rates, the Committee is nevertheless concerned at the lack of reliable statistics and at the still high rates of mortality,

morbidity and malnutrition affecting especially indigenous children and those who speak only Guaraní. It further notes the high maternal mortality rates, due largely to a high incidence of illegal abortion, especially in rural areas. It is also concerned about the unsatisfactory level of the immunization coverage.

38. **In light of article 24 of the Convention and in line with its previous recommendation (CRC/C/15/Add. 75, para. 45), the Committee recommends that the State party:**

(a) Allocate appropriate resources and develop comprehensive policies and programmes to improve the health situation of all children without discrimination, in particular by focusing more on primary health care and decentralizing the health-care system;

(b) In order to prevent child mortality and morbidity and address the high maternal mortality rate, provide adequate antenatal and postnatal health-care services and develop campaigns to inform parents about basic child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation, family planning and reproductive health;

(c) Develop a comprehensive nutritional programme in order to prevent and combat malnutrition, in particular among indigenous children and those who speak only Guaraní;

(d) Look to international cooperation for the full and efficient implementation of the immunization programme; and

(e) Seek technical assistance from, among others, WHO, UNICEF and UNFPA.

Children with disabilities

39. The Committee, while noting the National Action Plan for Disability, expresses its concern that lack of funding and mental and architectonic barriers prevent its full implementation. Further, it notes with concern that there are no programmes and services specific for children. The Committee is also concerned at the general lack of resources and specialized staff for these children, especially the ones with mental disabilities, in particular in rural areas.

40. **In light of article 23 of the Convention, the Committee recommends that the State party:**

(a) Undertake studies to determine the causes of and ways to prevent disabilities in children;

(b) Undertake measures to ensure that the situation of children with disabilities is monitored in order to assess their situation and needs effectively;

(c) Conduct public awareness campaigns in all languages, in particular indigenous ones, to raise awareness of the situation and the rights of children with disabilities;

(d) Allocate the necessary resources for programmes and facilities for all children with disabilities, especially the ones living in rural areas, and strengthen community-based programmes to enable them to stay at home with their families;

(e) Support the parents of children with disabilities with counselling and, when necessary, financial support;

(f) In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on "The rights of children with disabilities" (CRC/C/69, para. 310-339), further encourage their integration into the regular educational system and inclusion into society, including by providing special training to teachers and by making schools more accessible;

(g) Seek technical assistance from, among others, WHO.

Adolescent health

41. The Committee expresses its concern regarding the high rates of early pregnancy, the rise in the number of children and youths using drugs, and the growing number of cases of HIV/AIDS among the youth. Further, it notes the limited availability of programmes and services in the area of adolescent health, including mental health, and the lack of sufficient prevention and information programmes in schools, especially on reproductive health.

42. **In line with its previous recommendation (CRC/C/15/Add.75, para.45), the Committee recommends that the State party:**

(a) Undertake a comprehensive and multidisciplinary study to assess the scope and nature of adolescent health problems, including the negative impact of STDs and HIV/AIDS, and develop adequate policies and programmes;

(b) Increase its efforts to promote adolescent health, including mental health, policies, particularly with respect to reproductive health and substance abuse, and strengthen the programme of health education in schools;

(c) Undertake further measures, including the allocation of adequate human and financial resources, to evaluate the effectiveness of training programmes in health education, in particular as regards reproductive health, and to develop youth-sensitive and confidential counselling, care and rehabilitation facilities that are accessible without parental consent when this is in the best interests of the child; and

(d) Seek additional technical cooperation from, among others, UNFPA, UNICEF, WHO and UNAIDS.

7. Education, leisure and cultural activities

Education

43. While noting with appreciation the National Education Law of 1998 and the high rate of primary school enrolment, which is more than 95 per cent, the Committee is nevertheless concerned about the continuing poor quality of education, the non-tuition costs of compulsory school, the high repetition and drop-out rates, and the poor condition of infrastructures. It further notes with concern that pregnant girls are not allowed to stay in school.

44. **In light of articles 28 and 29 of the Convention, the Committee recommends that the State party:**

(a) Undertake appropriate measures to increase budgetary allocations for education, in particular for the improvement of school infrastructure;

(b) Ensure regular attendance at schools and the reduction of drop-out rates;

(c) Take measures to prevent bullying and other forms of violence in schools;

(d) Improve the quality of education in order to achieve the goals mentioned in article 29 (1), in line with the Committee's general comment No. 1 on the aims of education; and

(e) Seek additional technical cooperation from, among others, UNESCO and UNICEF.

8. Special protection measures

Children in armed conflict

45. The Committee is deeply concerned that, although the State party's legislation states that the minimum age for recruitment into the armed forces is 18, minors constitute a considerable proportion of conscripts into the Paraguayan armed forces and national police, and very much regrets that its previous recommendation (CRC/C/15/Add. 75, para. 36) in this regard was not implemented. It is deeply worried at the number of cases of torture and ill-treatment of conscripts, including children, by their superiors and at cases of unclarified deaths of conscripts, which also involved minors. In particular, it notes with concern that the majority of these deaths and ill-treatment cases were not investigated, and that there are reports of forcible recruitment of children, especially in rural areas, and of falsification of documents proving their age.

46. **The Committee urges the State party:**

(a) To put an end to the practice of recruiting children into the Paraguayan armed forces and national police, in line with its previous recommendation (CRC/C/15/Add.75, para. 36), and punish those involved in forcible recruitment;

(b) To investigate all cases of ill-treatment and death of conscripts and suspend from duty the officials implicated in such accidents;

(c) To prosecute and punish those responsible for these violations;

(d) To provide compensation to the victims of human rights violations during military service or their families;

(e) To provide training on human rights, including children's rights, to army officials; and

(f) To ratify the Optional Protocol to the Convention on the involvement of children in armed conflict, setting 18 years as the minimum age for all military recruitment.

Economic exploitation

47. The Committee expresses its deep concern at the increasing number of children who are exploited economically, in particular those under 14 years of age. In particular, it notes cases of abuse of girls in domestic service and a large number of children working in the streets, often at night and in unhealthy conditions, especially in the capital, Asunción. It also notes that ILO Convention No. 138 concerning Minimum Age for Admission to Employment has not been ratified.

48. **In light of article 32 of the Convention and in line with its previous recommendation (CRC/C/15/Add. 75, para. 43), the Committee reiterates that the State party should:**

(a) Continue to enforce and strengthen its legislation protecting working children;

(b) Combat and eradicate as effectively as possible all forms of child labour, including by strengthening its cooperation with ILO/IPEC; and

(c) Ratify ILO Convention No. 138 concerning Minimum Age for Admission to Employment.

Sexual exploitation

49. The Committee expresses its deep concern that, with regard to the increasing phenomenon of commercial sexual exploitation of children, there are no data available, legislation is inadequate, cases involving sexually exploited children are often not investigated and prosecuted, victims are criminalized, and rehabilitation programmes are not available. It further notes that a national plan against commercial sexual exploitation of children has not been developed.

50. **In light of article 34 of the Convention and in line with its previous recommendation (CRC/C/15/Add. 75, para. 47), the Committee recommends that the State party:**

(a) Undertake a study on this issue in order to assess its scope and causes, enable effective monitoring of the problem and develop all necessary measures and programmes to prevent, combat and eliminate sexual exploitation and abuse of children;

(b) Develop and adopt a national plan against sexual and commercial exploitation of children, taking into account the Agenda for Action of the Stockholm World Congress against Commercial Sexual Exploitation of Children; and

(c) In this regard, seek international cooperation from, among others, UNICEF and WHO.

Juvenile justice

51. While noting that the new Children's Code establishes a specific criminal procedure for children aged from 14 to 18 and the creation of a Youth Division of the National Police, the Committee expresses its concern at the long periods of pre-trial detention, at the fact that it is not used as a last resort, and that children are not informed of their rights and are not provided with legal assistance. Deep concern is also expressed at reports of torture and ill-treatment of detained juveniles, especially in the recently destroyed Panchito López Juvenile Correctional Institute, and at the situation of detention centres for juveniles, which are overcrowded and in poor condition. The Committee further notes that the education, rehabilitation and reintegration programmes provided during the detention period are inadequate.

52. **In line with its previous recommendation (CRC/C/15/Add. 75, para. 48), the Committee recommends that the State party:**

(a) Continue reviewing laws and practices regarding the juvenile justice system in order to bring it as soon as possible into full compliance with the Convention, in particular articles 37, 40 and 39, as well as with other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);

(b) Expedite the full enforcement of the Children's Code of 2001 which guarantees due process of law for children and social and educational correctional measures;

(c) Use pre-trial detention only as a measure of last resort, for as short a time as possible and for no longer than the period prescribed by law;

(d) Use alternative measures to pre-trial detention and other forms of deprivation of liberty whenever possible;

(e) Incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, in particular to guarantee them access to effective complaints procedures covering all aspects of their treatment;

(f) Ensure that those officers implicated in acts of torture and ill-treatment against inmates are suspended from duty pending a full and impartial investigation and, if found responsible, brought to justice;

(g) Provide training on human rights, including children's rights, to staff in detention centres;

(h) Take effective steps to improve conditions in detention centres and provide adequate education to children deprived of their liberty;

(i) Take appropriate rehabilitative measures to promote the social reintegration of the children involved in the juvenile justice system;

(j) Seek assistance from, inter alia, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

9. Optional Protocols

53. **The Committee encourages the State party:**

(a) To ratify and implement the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict;

(b) To accept the amendment to article 43 of the Convention as soon as possible.

10. Dissemination of documents

54. **Finally, the Committee recommends that, in light of article 44, paragraph 6, of the Convention, the second periodic report and written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government and the general public, including NGOs.**